

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

RITA DAVE,

Plaintiff,

— against —

THE COUNTY OF SUFFOLK, DETECTIVE  
INVESTIGATOR LAWRENCE SHEWARK, P.O.  
JANE DOE, and P.O.S JOHN DOE #1-10,

Defendants.

Case No. 15-CV-3864 (JMA) (ST)

**NOTICE OF MOTION FOR  
SANCTIONS AND RELATED  
RELIEF AGAINST DEFENDANT  
LAWRENCE SHEWARK**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that, upon the annexed Memorandum of Law,

Declaration of David B. Shanies and exhibits attached thereto, and all the papers and proceedings had herein, the undersigned will move this Court, at a time and place as the Court may direct, for an order, pursuant to Federal Rules of Civil Procedure 11 and 37 and the Court's inherent power:

- (1) Granting Plaintiff additional discovery, including (a) an independent forensic analysis of Defendant Lawrence Shewark's mobile device used to exchange text messages with non-party Ernesto Pizarro on August 10, 2018, as well as of any existing imaging of such device, and (b) a deposition of Defendant Shewark following such forensic analysis;
- (2) Issuing an adverse inference instruction at trial permitting the factfinder to conclude that any unrecoverable metadata of the text messages exchanged with Mr. Pizarro was favorable to Plaintiff;
- (3) Awarding Plaintiff compensatory and punitive monetary sanctions, including attorneys' fees and costs;
- (4) Referring this matter to the United States Attorney for the Eastern District of New York for investigation and any further action as appropriate; and
- (5) Granting such further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that Plaintiff's motion is based on

Defendant Shewark's various discovery misconduct, in violation of Rule 37(b), (c), and (e), and

submission of a declaration including false representations to the Court, in violation of Rule 11(b)(1) and (4).

DAVID B. SHANIES LAW OFFICE

New York, New York  
Dated: November 2, 2020

By:



David B. Shanies  
Joel A. Wertheimer  
Deborah I. Francois  
411 Lafayette Street, Sixth Floor  
New York, New York 10003  
(212) 951-1710 (Tel)  
(212) 951-1350 (Fax)  
*david@shanieslaw.com*  
*joel@shanieslaw.com*  
*deborah@shanieslaw.com*

*Counsel for Plaintiff Rita Dave*